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Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

FRANK J. CAMOSCIO,

PETITIONER,

VS.

PATTY ANN HODDER & ANOTHER,

RESPONDENTS.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE COMMONWEALTH OF MASSACHUSETTS

PETITION FOR A WRIT OF CERTIORARI

FRANK J. CAMOSCIO
PRO SE
252 HANOVER STREET
BOSTON, MASSACHUSETTS 02113
(617) 720-2849

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QUESTION PRESENTED

A. DOES THE PETITIONER HAVE THE CONSTITUTIONAL RIGHT OF EQUAL ACCESS TO THE COURTS ?

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PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE COMMONWEALTH OF MASSACHUSETTS

Petitioner, Frank J. Camoscio, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the Supreme Judicial Court entered in the above-entitled cause on January 24, 1991.

I.

OPINION BELOW

The memorandum opinion of the Supreme Judicial Court of the Commonwealth is attached as Appendix A. No opinion was issued by the single justice for the Supreme Judicial Court sitting in Suffolk County.

* * *

II.

JURISDICTION

The opinion for the Supreme Judicial Court for the Commonwealth was filed on January 24, 1991. The jurisdiction of this Court is invoked pursuant to 62 Stat. 928, 28 U.S.C. § 1254 (1).

III.

CONSTITUTIONAL PROVISION INVOLVED

The Fourteenth Amendment, Section 1 of the United States Constitution provides:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make

or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

IV.

STATEMENT OF FACTS

Petitioner appeared before respondent Judge Rouse on April 24, 1990 to obtain the court's leave to file suit against respondent Patty Ann Hodder which he was denied. Petitioner was complying with Judge Irwin's court orders as interpreted by both clerks and justices of Suffolk Superior

Court. Judge Irwin had written this order after Patty Ann Hodder appeared before him claiming that she was a victim of harassment by the petitioner and had brought criminal charges against him in Boston Municipal Court for threats upon her life. This criminal action ended on May 1, 1989 when Judge Hershfang granted the petitioner a directed verdict after he had proved that respondent Hodder had made perjured statements and had filed false charges against him. Petitioner sought the right to file a suit against respondent Hodder for filing false charges and for making perjured statements against him in order to maliciously prosecute him. Petitioner sought nothing more than the right to have equal access to the courts.

Judge Irwin's order stated that the petitioner must first submit any paper and any action to the justice

sitting in Suffolk Motion Session. However, due to budget cuts, Suffolk Motion Session has been abolished. The clerks and judges of Suffolk County still use this order to prevent the petitioner from having equal access to the courts. To date, the court has never sent a written order outlining the exact procedure the petitioner is to follow. Due to this ambiguity, the petitioner's right to equal access to the courts is constantly being violated. An example of this: the petitioner was denied the right to file a motion in Suffolk Superior Court on February 22, 1991 because Judge Rouse was ill. Judge Irwin's order stated that the petitioner should be insured the right of access to the judicial system. Please see Judge Irwin's order in Appendix B.

To date, Judge Rouse has given

not one reason why the petitioner is being denied the right to file a suit against respondent Hodder for malicious prosecution. If the petitioner is being denied the right to settle differences through the court system, then the petitioner has been stripped of his Constitutional rights.

V.

REASON FOR GRANTING THE WRIT

A. THIS CASE PROVIDES THIS COURT WITH AN OPPORTUNITY TO RESTORE THE PETITIONER'S CONSTITUTIONAL RIGHT OF EQUAL ACCESS TO THE COURTS.

There is no issue raised by the commonwealth nor Judge Rouse stating why the petitioner should be denied access to the courts to settle a tort against him by respondent Patty Ann

Hodder for malicious prosecution. Petitioner seeks nothing more than the right to file suit against respondent Hodder as guaranteed by the Constitution of the United States. Petitioner cites the following cases: Duva v. World Boxing Ass'n, 548 F. Supp. 710, "Procedural due process requires, at a minimum, that aggrieved party receive opportunity to be heard and a statement by the decision maker of the reasons for the outcome. U.S.C.A. Const. Amend. 14." and Sigafus v. Brown, C.A. Ill. 1969, 416 F. 2d 105, "Deprivation of materials necessary to afford reasonable access to the courts violates the due process clause of U.S.C.A. Const. Amend. 14, and a federal court has jurisdiction of claim for damages based on such deprivation."

VI.

CONCLUSION

This case presents an important constitutional issue regarding whether a state judge has the power and authority to deny a citizen equal access to the courts. The only question is whether this court will look the other way and allow the Constitution to be violated by denying the petitioner the basic Constitutional right of equal access to the courts.

I hereby certify that all of the above statements are true and are made under the pains and penalties of perjury.

Respectfully submitted,

Frank J. Camoscio

Frank J. Camoscio
Pro Se
252 Hanover Street
Boston, Massachusetts 02113

DATED: April 1, 1991

Domenic Bruno
NOTARY PUBLIC
My Commission Expires May 29, 1992

Domenic Bruno
4/1/91

CERTIFICATE OF SERVICE

I hereby certify that three copies of the foregoing Petition For Writ of Certiorari were mailed to Lawrence P. Fletcher-Hill, Assistant Attorney General, One Ashburton Place, Boston, Massachusetts 02108, and to Timothy J. Crispo Jr., 75 State Street, Boston, Massachusetts 02109.

I hereby certify that all the statements contained in my Certificate of Service are true and are made under the pains and penalties of perjury.

Frank J. Camoscio

Frank J. Camoscio
Pro Se

Domenic Bruno
NOTARY PUBLIC
My Commission Expires May 29, 1992

Domenic Bruno
4/1/91

APPENDIX

S-5426 S.J.C.

FRANK J. CAMOSCIO vs. PATTY ANN HODDER & another. [1]

January 24, 1991.

Jurisdiction, Supreme Judicial Court. Supreme Judicial Court, Jurisdiction, Superintendence of inferior courts.

In April, 1987, after a hearing and a determination that Frank J. Camoscio had filed a multiplicity of actions of an insubstantial nature, a judge of the Superior Court entered an order requiring the approval of a judge "sitting in the Suffolk Motion Session" before the court clerk could properly accept any paper filed in any action on behalf of Camoscio. A panel of the Appeals Court affirmed that order. See Camoscio v. Wilner, 25 Mass. App. Ct. 1119, further appellate review denied,

402 Mass. 1103 (1988).

In April, 1990, Camoscio sought to file an action against the defendant Hodder, and a judge sitting in Suffolk Superior Court denied Camoscio leave to do so. Camoscio then filed against Hodder and the judge a "petition for equity" under G. L. c. 214, § 1 (1988 ed.), with the clerk of the Supreme Judicial Court for the county of Suffolk (county court), challenging the refusal of the Superior Court judge to accept his complaint for filing. As far as appears, Camoscio did not seek to appeal the order of the Superior Court judge. A single justice of this court dismissed the "petition for equity" without a hearing, and Camoscio has appealed to the full court.

General Laws c. 214, § 1, concerning the original, not the appellate, jurisdiction of the county court provides no avenue to challenge a trial court order. If, despite its allegations, the complaint were to be treated as one under G. L. c. 211, § 3 (1988 ed.), seeking supervisory relief from a single justice, the complaint would fare no better because Camoscio had another avenue of relief and, moreover, even if there were no other avenue of relief, he has made no showing that the single justice abused his discretion in dismissing the complaint. The fact that the Superior Court judge who acted in this matter was not "sitting in the Suffolk Motion Session" and the fact that such a session no longer exists in no way benefit Camoscio.

Judgment affirmed.

The case was submitted on briefs.

James M. Shannon, Attorney General, & Beth A. Levi, Assistant Attorney General, for a judge of the Superior Court.

Frank J. Camoscio, pro se.

---

[1] A judge of the Superior Court.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.	SUPERIOR COURT CIVIL ACTION NO. 56398
FRANK J. CAMOSCIO, Plaintiff v. BOARD OF REGISTRATION IN PODIATRY, Defendant	cross referenced into Nos. 64251, 65042, 76698, 83455, 87037, 87180, 87200, 87510, 87-94, 87-270, 87-1191, 87-1744, 87-1745 and Disposed of Nos. 27561, 38912, 77285, 83317, 87509, and 87-448

SECOND AMENDED
ORDER OF COURT
RE: FILING OF PAPERS BY PLAINTIFF,
FRANK J. CAMOSCIO

It appears to the Court that Frank J. Camoscio is the Pro Se Plaintiff in a series of pending or disposed of actions.

The multiplicity of actions and the insubstantial nature of the litigation, together with the inordinate amount of clerical, legal, and judicial

time required to process these claims indicate the appropriateness of controlling Mr. Camoscio's continued use of the court system.

This Court is aware that Mr. Camoscio,, like any individual, is entitled to represent himself, G.L. c. 221, § 48. Such right, however, does not preclude the Court's making such responsible order as may, while insuring Mr. Camoscio access to the judicial system, reasonably restrict his abuse of that system.

Accordingly, after hearing, it is Ordered, that the Clerk not accept the filing from or on behalf of Frank J. Camoscio any paper in any action (whether pending or future) without first submitting the same to the Justice then sitting in the Suffolk Motion Session.

By the Court, (Irwin, J.)

John J. Lynch

Asst. Clerk

Dated: April 30, 1987